

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, CIVIL JURISDICTION

WRIT PETITION NO.7047 OF 2007

M/s.Priti Polycoated & Anr.

..Petitioners

Versus

Union of India & Ors.

..Respondents

Shri R. Shridharan with Mr. Prakash Shah i/b. M/s. PDS

Legal for Petitioner

Mr. Y.S. Bhate with Mr. Srinivasan and Mr. H.P.

Chaturvedi for Union of India.

CORAM : F.I. REBELLO &

R.S. MOHITE, JJ.

DATED : 29TH NOVEMBER, 2007

P.C.

. Rule. Heard forthwith. By the impugned order dated 18th June, 2007 the learned Tribunal has been pleased to remand the matter to the Commissioner (Appeals) for redetermination of assessable value, duty amount, limitation and penalty.

. In so far as issue pertaining to manufacture it has been contended that the Commissioner (Appeals) has recorded a finding and the said finding has been upheld without adequate reasons. In so far as the Notification is concerned, the issue was not considered by the Commissioner (Appeals) as apparently it was not raised. The learned Tribunal, however, has held that the products are not entitled to the benefit under the Notification. Various submissions had been advanced before us on both those aspects of the matter. In our opinion it will be appropriate

that the matter goes back to the Commissioner for recording a finding of fact as to whether lamination of fabrics amounts to manufacture and secondly as to whether the said product would be entitled to the benefit of the Notification.

. Considering the above, the impugned order to that extent in so far as the Petitioners are concerned is also set aside and the matter is remanded to the Commissioner for deciding these two issues along with the other issues already remanded by the Tribunal. Rule made absolute accordingly. No order as to costs.

(R.S. MOHITE, J.)

(F.I. REBELLO, J)